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December 10, 2015

Honorable Judge Peggy Kuo
United States Magistrate Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Letter Memorandum
French v. The City of New York, et. al.
Docket No.: 14-cv-2922 (JBW) (PK)

Your Honor:

I respectfully present this letter in response to your Order to Show Cause why sanctions should not be imposed pursuant to Rule 16(f) of the Federal Rules of Civil Procedure for my failure to appear at status conferences on February 19, 2015 and December 2, 2015.

First, I offer my sincerest and deepest apologies to this Honorable Court and defense counsel for my failure to appear at the December 2, 2015 Court ordered status conference. There was certainly no disrespect intended and my failure to appear was unintentionally caused by unfortunate law office failure to diary this appearance. I was in no way attempting to be non-compliant or willfully disrespectful to this Honorable Court.

Because the matter was not properly calendared, I was not in the office on December 2, 2015. I was attending an interview for my son who is type one diabetic, has learning disabilities and is currently home schooled with hopes of enrollment in a school to accommodate his needs. I also attended a psychiatric appointment for my eleven year old daughter. (Annexed hereto as exhibit "A" is correspondence from the school regarding the appointment and an electronic mail transmission regarding my daughter's medical appointment) I am grateful to the Court for alerting my office and permitting my associate, Marc Subin, Esq. to appear in my stead.

In the December 2, 2015 order, the Court notes my prior non-appearance on February 19, 2015 for a conference before the Former Magistrate Judge Pohorelsky in this matter. Regrettably, this failure to appear was also caused by office failure to properly calendar the appearance date. I informed my staff of the failure and told them to make certain to accurately and promptly record all court appearances. Unfortunately an error again occurred. Again, I apologize for the error, and have taken the further steps to ensure that Federal cases are properly managed. In addition to the Federal Court specific calendar used by my calendaring paralegal staff to notify attorneys of court dates, I have also implemented a non-electronic, hard copy traditional ledger book in which future Federal Court appearances are entered by *two attorneys*. Eric Subin, Esq. is responsible for entering the court appearances, checking them against the office calendar system to make sure they are entered into the general calendar, and in addition notifying the attorney of record the day before each court appearance. In Eric Subin's absence, Marc Subin Esq. will assume this responsibility. Both attorneys will enter appearances in each federal case so that they both receive court notifications. We believe that this backup system, by attorneys, who are certainly cognizant of the professional responsibility to assure court attendance, will prevent any future failures in this regard.

With the exception of these regrettable calendaring issues, I believe that I have substantially complied with this Honorable Court's directives. I served Rule 26 initial disclosures; plaintiff's interrogatories and document requests; served responses to defendant's interrogatories and request for production of documents; moved this Honorable Court to compel responses to plaintiff's interrogatories and document requests; filed an amended complaint and timely served it upon the respective parties; proactively sought an extension of time to complete discovery; produced the plaintiff for a deposition; exchanged plaintiff's treating physician disclosure and provided supplemental responses to interrogatories providing additional information concerning non-party witnesses. I intend to diligently pursue this matter to its conclusion.

In conclusion, I assure the Court that I accept full responsibility for my failures to appear, and extend my deepest apologies and remorse to the Court and defense counsel for my non-willful non-appearance at these conferences. I will ensure that the newly implemented initiatives shall prevent any future mis-calendarings. I most respectfully request that sanctions not be levied herein.

Respectfully Submitted,



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cc: **VIA ECF**

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